

Bye Bye to Education (CESSES)

(G. Natarajan, Advocate, Swamy Associates)

One significant change in the budget is the withdrawal of Education CESS and Secondary and Higher Education Cess on Excise duty with immediate effect (by way of exemption notification) and similar withdrawal in respect of service tax (once the enhanced rate of service tax comes into effect). The Finance Minister has indicated the underlying purpose of this amendment is a move towards GST, to subsume such Cesses into the mainstream (Had it been, why only exempt it by a notification instead of abolishing it altogether, is another question). The fall out of these changes would be;

No Education CESS / Secondary Education CESS on Excise duty for the clearances made from 01.03.2015.

Education CESS / Secondary Education CESS would continue to be leviable on service tax, till service tax rate becomes 14 % (which will happen from an appointed date after the passage of the Finance Bill, 2015).

Customs Education CESS / Secondary Education CESS would continue to be levied.

Another shocking implication of these measures would be that the Cenvat Credit balance of Education CESS / Secondary Education CESS available with all manufacturers as of today, would become a deadstock! This is because cenvat credit of Education CESS / Secondary Education CESS can be used only for payment of Education CESS / Secondary Education CESS on the final products. When there is no Education CESS / Secondary Education CESS on the final products from 01.03.2015, the credit cannot be used at all. Similar fate would come to the service providers in future.

Off course, they may retain the credit of Education CESS / Secondary Education CESS in the books and use it only for the following limited purposes.

i) For payment of cenvat credit on as such removal of inputs, in respect of which Education CESS / Secondary Education CESS credits have been availed earlier.

ii) In future, if any duty demands / differential duty demands are raised for any reason, to pay the Education CESS / Secondary Education CESS on such duty demands, such credit can be used.

iii) If the manufacturer is also a service provider and liable to pay service tax, the Education CESS / Secondary and Higher Education CESS payable on service tax can be paid by utilising such credit.

iii) In the event of re-introduction of Education CESS / Secondary Education CESS in future, such credit can be used!

It may be noted that neither any refund of the balance of the cenvat credit of Education CESS / Secondary Education CESS can be claimed, nor the said balance would lapse.